WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-016

AN ORDER to create chapter DE 7, relating to the education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

02–01–99 RECEIVED BY LEGISLATIVE COUNCIL.

03-01-99 REPORT SENT TO AGENCY.

RNS:MM:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

Comment Attached

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below: 1. STATUTORY AUTHORITY [s. 227.15 (2) (a)] Comment Attached YES NO 2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)] Comment Attached YES / NO 3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)] YES NO / Comment Attached ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)] YES / Comment Attached NO CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)] Comment Attached POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)] NO 1 Comment Attached YES COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

YES

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CLEARINGHOUSE RULE 99-016

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

Section DE 7.04 (4) appears to be in conflict with s. 447.06 (2) (e) 2. That statutory provision provides that a licensed dental hygienist may administer local anesthesia "if the dental hygienist is certified under s. 447.04 (2) (c) 1." (Emphasis added.) It appears that s. DE 7.04 (4), may conflict with this requirement by permitting a dental hygienist who has not yet obtained certification under s. 447.04 (2) (c) 1., Stats., to administer local anesthesia to a patient at the dental hygienist's place of employment. Further, that subsection of the rule appears to require an applicant for certification to administer local anesthesia to a patient.

2. Form, Style and Placement in Administrative Code

- a. The definition of "board" in s. DE 7.02 (2) is unneeded. The term is defined in current s. DE 1.02 (3).
- b. Should the rule contain a more specific description of the type of "qualification" in cardiopulmonary resuscitation that an applicant for certification must have? See, for example, s. DE 7.03 (2).
- c. Section DE 7.04 (4) does not follow from s. DE 7.04 (intro.). Also, reference is made to "this course." The rule should indicate what "this course" is. Finally, "currently" should not be used in a rule. [See s. 1.01 (9) (b), Manual.]

- d. Abbreviations and parentheses should be avoided in a rule. See s. DE 7.05 (3) (b). [See s. 1.01 (6) and (8), Manual.]
 - e. Throughout the rule, "must" should be changed to "shall."

4. Adequacy of References to Related Statutes, Rules and Forms

The analysis to the rule should include, as a statutory provision interpreted, s. 447.06 (2) (e) 2., Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The analysis to the rule should state that in order to obtain certification, an applicant who is currently employed must provide a statement from the employing dentist that the applicant has administered an inferior alveolar injection on a patient.

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING

PROPOSED ORDER OF THE

PROCEEDINGS BEFORE THE

DENTISTRY EXAMINING BOARD

DENTISTRY EXAMINING BOARD

ADOPTING RULES

(CLEARINGHOUSE RULE 99-)

PROPOSED ORDER

An order of the Dentistry Examining Board to *create* Chapter DE 7, relating to the education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and 447.02 (2) (e), Stats., as created by 1997 Wisconsin Act 96.

Statutes interpreted: s. 447.04 (2) (c) 1., Stats.

This proposed rule-making order of the Dentistry Examining Board promulgates rules mandated under 1997 Wisconsin Act 96, regarding the education required of dental hygienists to receive a certificate to administer local anesthesia to patients. Under the Act, the scope of practice of a qualified dental hygienist is expanded to permit the administration of local anesthesia pursuant to a treatment plan approved by a dentist who is present in the dental facility when local anesthesia is administered and is available to the patient throughout the completion of the appointment. These rules establish the education required of a dental hygienist to administer local anesthesia, as well as the application procedures for receiving a certificate from the board to perform that function. The rules were developed in conjunction with the Wisconsin Dental Association and the Wisconsin Dental Hygienists' Association.

The rules require that a dental hygienist must complete 21 hours of instruction in local anesthesia provided by an accredited dental or dental hygiene school. The course must be comprised of at least 10 hours in didactic instruction in relevant subject areas, and at least 11 hours in the clinical administration of local anesthesia.

TEXT OF RULE

SECTION 1. Chapter DE 7 is created to read:

CHAPTER DE 7

CERTIFICATION OF DENTAL HYGIENISTS TO ADMINISTER LOCAL ANESTHESIA

DE 7.01 Authority. The rules in this chapter are adopted pursuant to ss. 15.08 (5) (b), 227.11 (2) and 447.02 (2) (e), Stats.

DE 7.02 Definitions. As used in this chapter:

- (1) "Accredited" has the meaning under s. 447.01 (1), Stats.
- (2) "Board" means the dentistry examining board.

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DE 7.03 Qualifications for certification of licensed dental hygienists to administer local anesthesia. An applicant for certification to administer local anesthesia shall be granted a certificate by the board if the applicant complies with all of the following:

- (1) Has a current license to practice as a dental hygienist in this state.
- (2) Provides evidence of current qualification in cardiopulmonary resuscitation.

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- (3) Has completed the educational requirements of s. DE 7.05.
- (4) Has submitted the information required in the application under s. DE 7.04.

DE 7.04 Application procedure. An applicant for a certificate to administer local anesthesia shall file a completed application on a form provided by the board. The application shall include all of the following:

- (1) The dental hygienist license number in this state and the signature of the applicant.
 - (2) Evidence of current qualification in cardiopulmonary resuscitation.
- (3) Evidence of successful completion of a didactic and clinical program sponsored by an accredited dental or dental hygiene program, resulting in the dental hygienist becoming competent to administer local anesthesia under the delegation and supervision of a dentist, the curriculum of which meets or exceeds the basic course requirements set forth in s. DE 7.05.

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dolant follow for the light of all this course to the for those dental hygienists who are currently employed and taking this course to
(4) For those dental hygienists who are currently employed and taking this course \(\psi\)
as continuing education outside of the initial accredited dental hygiene program, the
administration of local anesthesia on a non-classmate may be performed at the place where the
dental hygienist is currently employed. In those instances the application:
(a) Must contain a statement from the employing dentist that he or she
supervised and verifies the successful completion of an inferior alveolar injection on a patient who was informed of the situation and granted his or her consent to the dentist, and that the dentist assumed liability for the injection performed on the patient.
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(b) Must indicate that the inferior alveolar injection was completed within 6 weeks from the time that the licensed dental hygienist completed the coursework; or, if licensed by endorsement of a dental hygienist license from another state, within 6 weeks of becoming licensed as a dental hygienist in this state.
Note: Applications are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.
DE 7.05 Educational requirements. The following educational requirements are necessary for the board to approve and grant certification to a licensed dental hygienist in the administration of local anesthesia:
(1) The course in the administration of local anesthesia shall be provided by an accredited dental or dental hygiene school.
(2) To participate in a course in the administration of local anesthesia, a person shall do all of the following: to present conducting about 50.
(a) Show evidence of current qualification in cardiopulmonary
resuscitation.
(b) Provide proof of possessing a current license to practice as a dental hygienist in this state, or having graduated from an accredited dental hygiene program, or of being currently enrolled in an accredited dental hygiene program.
(3) The local anesthesia course must have the following components and provide a minimum of 21 hours of instruction:
(a) Didactic instruction. Minimum of 10 hours, including but not limited o the following topics:

1. Neurophysiology and pain perception.

2. Basic pharmacology and drug interactions.

3. Chemistry, pharmacology and clinical properties of local anesthesia, vasoconstrictors, and topical anesthesia. 4. Anatomical considerations for the administration of anesthesia. 5. Patient assessment for the administration of anesthesia. 6. Selection and preparation of armamentarium. 7. Recognition, management and emergency response to local complications. 8. Recognition, management and emergency response to systemic complications. 9. Ethical and legal considerations. 10. Techniques for regional anesthesia. (b) Experience in the clinical administration of local anesthesia. Minimum of 11 hours in the following techniques: 1. Maxillary. alhen a. Posterior superior alveolar (PSA). b. Middle superior alveolar (MSA). c. Anterior superior alveolar (ASA). d. Greatér/lesser palatine (G/LP). e. Nasopalatine (NP). f. Supraperiosteal (infiltration) injection. 2. Mandibular. a. Inferior alveolar/lingual (IA/L). b. Mental/incisive nerve block.

c. Buccal nerve.

d. Periodontal ligament injection.

e.	Intraseptal	injection	(IS)).

- (c) Students performing injections as part of the clinical coursework must successfully perform all local anesthesia injections on their classmates as well as perform at least one successful inferior alveolar injection on a non-classmate patient. For those licensed dental hygienists who are completing this course in the continuing education environment, the injection on a non-classmate patient may be performed in the office where the dental hygienist is currently employed, as long as the employer-dentist agrees to supervise and submit verification of the successful completion of the injection.
- (d) A dentist licensed under ch. 447, Stats., must be present in the facility and available to both the patients and to the students of the class.

DE 7.06 Dentist responsibility for the administration of local anesthetic. The dentist
is ultimately responsible for all decisions regarding the administration of local anesthetic,
particularly in determining the pharmacological and physiological considerations of each
individual treatment plan.
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(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative pursuant to s. 227.22 (2) (intro.), Stats.

Dated	Agency	
	Cha	irperson
	Dentistry Ex	xamining Board

FISCAL ESTIMATE

- 1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
- 2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
- 3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of businesses, as defined in s. 227.114 (1) (a), Stats.

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STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING

PROPOSED ORDER OF THE

PROCEEDINGS BEFORE THE

DENTISTRY EXAMINING BOARD

DENTISTRY EXAMINING BOARD

ADOPTING RULES

(CLEARINGHOUSE RULE 99-016)

TO: Senator Judy Robson, Senate Co-Chairperson

Joint Committee for the Review of Administrative Rules

Room 15 South, State Capitol Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DENTISTRY EXAMINING BOARD is submitting in final draft form proposed rules relating to the education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING: REPORT TO THE LEGISLATURE

PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 99-016

DENTISTRY EXAMINING BOARD : (s. 227.19 (3), Stats.)

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

The application form is being developed.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

This proposed rule-making order of the Dentistry Examining Board promulgates rules mandated under 1997 Wisconsin Act 96, regarding the education required of dental hygienists to receive a certificate to administer local anesthesia to patients. Under the Act, the scope of practice of a qualified dental hygienist is expanded to permit the administration of local anesthesia pursuant to a treatment plan approved by a dentist who is present in the dental facility when local anesthesia is administered and is available to the patient throughout the completion of the appointment. These rules establish the education required of a dental hygienist to administer local anesthesia, as well as the application procedures for receiving a certificate from the board to perform that function. The rules were developed in conjunction with the Wisconsin Dental Association and the Wisconsin Dental Hygienists' Association.

The rules require that a dental hygienist must complete 21 hours of instruction in local anesthesia provided by an accredited dental or dental hygiene school. The course must be comprised of at least 10 hours in didactic instruction in relevant subject areas, and at least 11 hours in the clinical administration of local anesthesia.

V. PUBLIC HEARING ATTENDEES AND WRITTEN COMMENTS:

A public hearing was held on March 3, 1999.

Dr. Kathleen Roth, West Bend, WI, representing the Wisconsin Dental Association appeared and presented oral testimony in support of the proposed rules.

A list of attendees who appeared and registered in support of the proposed rules:

- 1) Sandy Westenberger, Oshkosh, WI, representing the Wisconsin Dental Hygienists Association
- 2) Patti Bavlnka, Sun Prairie, WI, representing herself and the new Dental Hygiene Association of Wisconsin
- 3) Linda Jorgenson, RDH, BS, River Falls, WI
- 4) Dale J. Jorgenson; Steven R. Jacobsen, D.D.S.
- 5) Jeanne M. Anderson, Clinical Associate Professor, University of Minnesota, Division of Dental Hygiene.

The following individuals, who are the founding members of the Dental Hygiene Association of Wisconsin, submitted a written letter in support of the proposed rules:

- 1) Patti Bavlnka, RDH, M.Ed.
- 2) Midge Pffeffer, RDH, B.S.
- 3) Janet Doptke, RDH,
- 4) Nancy McKenney, RDH, M.S.
- 5) Janet Recore, RDH
- 6) Lynn Goetsch, RDH, M.S.
- 7) Maureen Oostdik-Hurd, RDH, B.S.
- 8) Joy Berg, RDH.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comments 2.a., b., c., d., e. and f., were accepted in whole.

In response to Comment 1. The final draft was modified to make it clear that the administration of local anesthesia by a dental hygienist not certified under s. 447.04 (2) (c) 1, Stats., would have to occur as part of a local anesthesia program that is sponsored by an accredited dental or dental hygiene program. This requirement is also described in s. DE 7.05 (3) (c). The administration of local anesthesia under the circumstances described in the rule is permitted under s. 447.065 (2), Stats., as a delegated act.

In response to Comment 5. The analysis was not amended. The statement in the analysis is that the course must include "at least 11 hours in the clinical administration of local anesthesia." The language proposed in the comment is not correct for dental hygienist applicants who completed the educational requirements specified in s. DE 7.05 during coursework leading to graduation from an accredited dental hygienist school.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING

PROPOSED ORDER OF THE

PROCEEDINGS BEFORE THE

DENTISTRY EXAMINING BOARD

DENTISTRY EXAMINING BOARD

ADOPTING RULES

(CLEARINGHOUSE RULE 99-016)

PROPOSED ORDER

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Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and 447.02 (2) (e), Stats., as created by 1997 Wisconsin Act 96.

Statutes interpreted: ss. 447.04 (2) (c) 1. and 447.06 (2) (e) 2., Stats.

This proposed rule-making order of the Dentistry Examining Board promulgates rules mandated under 1997 Wisconsin Act 96, regarding the education required of dental hygienists to receive a certificate to administer local anesthesia to patients. Under the Act, the scope of practice of a qualified dental hygienist is expanded to permit the administration of local anesthesia pursuant to a treatment plan approved by a dentist who is present in the dental facility when local anesthesia is administered and is available to the patient throughout the completion of the appointment. These rules establish the education required of a dental hygienist to administer local anesthesia, as well as the application procedures for receiving a certificate from the board to perform that function. The rules were developed in conjunction with the Wisconsin Dental Association and the Wisconsin Dental Hygienists' Association.

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TEXT OF RULE

SECTION 1. Chapter DE 7 is created to read:

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DE 7.01 Authority. The rules in this chapter are adopted pursuant to ss. 15.08 (5) (b), 227.11 (2) and 447.02 (2) (e), Stats.

DE 7.02 Definitions. As used in this chapter "accredited" has the meaning under s. 447.01 (1), Stats.

- **DE 7.03 Qualifications for certification of licensed dental hygienists to administer local anesthesia.** An applicant for certification to administer local anesthesia shall be granted a certificate by the board if the applicant complies with all of the following:
 - (1) Has a current license to practice as a dental hygienist in this state.
- (2) Provides evidence of current qualification in cardiopulmonary resuscitation from either the American heart association or American red cross.
 - (3) Has completed the educational requirements of s. DE 7.05.
 - (4) Has submitted the information required in the application under s. DE 7.04.
- **DE 7.04 Application procedure.** An applicant for a certificate to administer local anesthesia shall file a completed application on a form provided by the board. The application shall include all of the following:
- (1) The dental hygienist license number in this state and the signature of the applicant.
- (2) Evidence of current qualification in cardiopulmonary resuscitation from either the American heart association or the American red cross.
- (3) Evidence of successful completion of a didactic and clinical program sponsored by an accredited dental or dental hygiene program, resulting in the dental hygienist becoming competent to administer local anesthesia under the delegation and supervision of a dentist, the curriculum of which meets or exceeds the basic course requirements set forth in s. DE 7.05. For those dental hygienists who are employed and taking a local anesthesia program as continuing education outside of the initial accredited dental hygiene program, the

administration of local anesthesia on a non-classmate may be performed at the place where the dental hygienist is employed. In those instances the application:

- (a) Shall contain a statement from the employing dentist that he or she supervised and verifies the successful completion of an inferior alveolar injection on a patient who was informed of the situation and granted his or her consent to the dentist, and that the dentist assumed liability for the injection performed on the patient.
- (b) Shall indicate that the inferior alveolar injection was completed within 6 weeks from the time that the licensed dental hygienist completed the coursework; or, if licensed by endorsement of a dental hygienist license from another state, within 6 weeks of becoming licensed as a dental hygienist in this state.

Note: Applications are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

- **DE 7.05 Educational requirements.** The following educational requirements are necessary for the board to approve and grant certification to a licensed dental hygienist in the administration of local anesthesia:
- (1) The course in the administration of local anesthesia shall be provided by an accredited dental or dental hygiene school.
- (2) To participate in a course in the administration of local anesthesia, a person shall do all of the following:
- (a) Show evidence of current qualification in cardiopulmonary resuscitation from either the American heart association or the American red cross.
- (b) Provide proof of possessing a license to practice as a dental hygienist in this state, or having graduated from an accredited dental hygiene program, or of being enrolled in an accredited dental hygiene program.
- (3) The local anesthesia course shall have the following components and provide a minimum of 21 hours of instruction:
- (a) Didactic instruction. Minimum of 10 hours, including but not limited to the following topics:
 - 1. Neurophysiology and pain perception.
 - 2. Basic pharmacology and drug interactions.
- 3. Chemistry, pharmacology and clinical properties of local anesthesia, vasoconstrictors, and topical anesthesia.

- 4. Anatomical considerations for the administration of anesthesia.
- 5. Patient assessment for the administration of anesthesia.
- 6. Selection and preparation of armamentarium.
- 7. Recognition, management and emergency response to local

complications.

8. Recognition, management and emergency response to systemic

complications.

- 9. Ethical and legal considerations.
- 10. Techniques for regional anesthesia.
- (b) Experience in the clinical administration of local anesthesia. Minimum of 11 hours in the following techniques:

1. Maxillary.

- a. Posterior superior alveolar.
- b. Middle superior alveolar.
- c. Anterior superior alveolar.
- d. Greater/lesser palatine.
- e. Nasopalatine.
- f. Supraperiosteal (infiltration) injection.

2. Mandibular.

- a. Inferior alveolar/lingual.
- b. Mental/incisive nerve block.
- c. Buccal nerve.
- d. Periodontal ligament injection.
- e. Intraseptal injection.

- (c) Students performing injections as part of the clinical coursework shall successfully perform all local anesthesia injections on their classmates as well as perform at least one successful inferior alveolar injection on a non-classmate patient. For those licensed dental hygienists who are completing this course in the continuing education environment, the injection on a non-classmate patient may be performed in the office where the dental hygienist is employed, as long as the employer-dentist agrees to supervise and submit verification of the successful completion of the injection.
- (d) A dentist licensed under ch. 447, Stats., shall be present in the facility and available to both the patients and to the students of the class.

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(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative pursuant to s. 227.22 (2) (intro.), Stats.

Dated	Agency
	Chairperson
	Dentistry Examining Roard

FISCAL ESTIMATE

- 1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
- 2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
- 3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will have no significant economic impact on small of businesses, as defined in s. 227.114 (1) (a), Stats.

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